



**MILPITAS CITY COUNCIL MEETING AGENDA  
OCTOBER 3, 2006**

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**6:00 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)  
455 E. CALAVERAS BOULEVARD**

**SUMMARY OF CONTENTS**

- I. ROLL CALL (6:00 p.m.)**
- II. ADJOURN TO CLOSED SESSION**
  - 1) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**  
(Pursuant to California Government Code §54956.9(a))  
City of Milpitas v. Turner Construction et al., Santa Clara County Superior Court Case No. 103CV815946 Consolidated with Case No. 103CV0084002
  - 2) CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**  
(Pursuant to California Government Code §54957.6)  
City Negotiator: Carmen Valdez  
Employee Organization: Milpitas Professional and Technical Group (ProTech)  
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
- III. CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote on abstention of each member present**
- IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)**
- V. INVOCATION (Mayor Esteves)**
- VI. APPROVAL OF MINUTES (September 19, 2006)**
- VII. SCHEDULE OF MEETINGS**
- VIII. PRESENTATIONS**
  - Proclamation  
Fire Prevention Week, October 8-14, 2006
  - Special Presentations  
Tsukuba Welcome & Anniversary Commemoration, Japan Sister City  
CA Assemblymember Alberto Torrico – General Legislative Update
- IX. PUBLIC FORUM**

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Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

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- X. ANNOUNCEMENTS**
- XI. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- XII. APPROVAL OF AGENDA**
- XIII. CONSENT CALENDAR (Items with Asterisks)**
- XIV. PUBLIC HEARINGS - NONE**
- XV. UNFINISHED BUSINESS**
  - \* 1. Odor Control Comprehensive Action Plan Update (Staff Contact: Marilyn Nickel, 586-3345)**
- XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**
  - RA1. Call to Order by the Mayor/Chair**
  - RA2. Roll Call**
  - RA3. Approval of Minutes (September 19, 2006)**
  - RA4. Approval of Agenda and Consent Calendar**
  - RA5. Receive Progress Report on Library and East Parking Garage, Project Nos. 8162 and 8161 (Staff Contact: Mark Rogge, 586-3403)**
  - \*RA6. Waive Second Reading Beyond Title and Adopt Ordinance Nos. 192. 16 and 192.17 Amending the Redevelopment Plans for Project Area No. 1 and the Great Mall Project Area (Staff Contact: Diana Whitecar, 586-3059)**
  - \*RA7. Adopt Resolution Granting Initial Acceptance: North Main Street Utilities Project Weller Lane To Carlo Street Underground District No. 5, Project No. 8153, (Staff Contact: Steve Erickson, 586-3414)**
  - \*RA8. Authorize City Manager to Execute a Land Exchange Agreement with McCarthy Ranch Limited Partnership and Execute Grant Deeds, and Adopt Two Resolutions Authorizing Lot Line Adjustment, and to Summarily Vacate a Public Service Easement: Main Sewage Pump Station Site Improvements, Project No. 6079 (Staff Contact: Greg Armendariz, 586-3317)**
  - RA9. Agency Adjournment**
- XVII. JOINT PUBLIC FINANCING AUTHORITY AND CITY COUNCIL MEETING**
  - FA1. Call to Order by the Mayor/Chair**
  - FA2. Roll Call**
  - FA3. Approval of Agenda**
  - FA4. Adopt Resolutions Authorizing the Sale, Execution and Delivery of Certificates of Participation in the Maximum Principal Amount of \$11 million to Provide Financing for Sewer System Improvements and Approve Related Documents and Actions (Staff Contacts: Emma Karlen, 586-3145 and Greg Armendariz, 586-3317)**
  - FA5. Agency Adjournment**

## **XVIII. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES**

### **City Council**

- 2. Discuss Petition Regarding Noise at Gill Park and Neighbor Concerns (Contact: Councilmember Polanski, 586-3024)**

### **Telecommunications Commission**

- 3. Approve Governing Policy and Operating Procedures for Milpitas Community Television Staff Contact: Bill Marion, 586-2701)**

### **Utility Rate Subcommittee**

- 4. Report on the Utility Rate Subcommittee Spring Valley Heights Solid Waste Service (Staff Contact: Marilyn Nickel, 586-3347)**

### **Economic Development Commission**

- \* 5. Recommendations for Action Plan Implementation: Branding Strategy and Entry Feature Signs (Staff Contact: Diana Whitecar, 586-3059)**

### **Facilities Naming Subcommittee**

- \* 6. Approve Recommendation from the Facilities Naming Subcommittee to Request the County To Include Historically Themed Elements in The Proposed Milpitas Valley Health Center to Honor Early Medical Professionals in Milpitas (Staff Contact: Mark Rogge, 586-3403)**

### **Parks, Recreation and Cultural Resources Commission**

- \* 7. Approve Twelve Family Child Care Assistance Fund Grant Requests (Staff Contact: Toby Librande, 586-3203)**
- \* 8. Approve Three (3) Group and One (1) Individual Youth Sports Assistance Fund Grant Request (Staff Contact: Bonnie Greiner, 586-3227)**

## **XIX. NEW BUSINESS**

- \* 9. Approve 'S' Zone Approval No. SZ2005-17 to Develop a 1.33 acre Parcel with a New 4,196 Square Foot, One-Story, Single-Family Hillside Residence with Site Modifications that include Removal of Protected Trees, Grading, and Landscaping, located at 802 Calaveras Ridge Drive (APN: 029-06-029), Zoned Single Family Residential-Hillside (R1-H), Applicant: Sam and Hemla Rao (Staff Contact: Kim Duncan, 586-3283)**

## **XX. ORDINANCE**

- 10. Consideration of an Ordinance of the City Council of the City of Milpitas Amending Milpitas Municipal Code Sections I-500-1.01 and 1.05 Regarding Appointment of Planning Commissioners, Including Waiver of First Reading and Introduction (Staff Contact: Richard Pio Roda, 586-3040)**

## **XXI. RESOLUTIONS**

- 11. Adopt Resolution Amending the City Of Milpitas Classification Plan (Staff Contact: Carmen Valdez, 586-3086)**

- \* 12. **Adopt Resolution Granting Partial Acceptance of Certain Public Improvements: Parc Metropolitan, Project No. 3061 (Staff Contact: Mehdi Khaila, 586-3328)**
- \* 13. **Adopt Resolution Certifying and Annexing Midpen Senior Housing Property on N. Main Street to Community Facilities District No. 2005-1, Project No. 3192 (Staff Contact: Mehdi Khaila, 586-3328)**

## XXII. BIDS AND CONTRACTS

- \* 14. **Approve Consultant Agreements: RBF Consulting, and David J. Powers & Associates, Inc.- Environmental Services, On-Call Services (Various CIP/Non-CIP Projects) (Staff Contact: Andrew Brozyna, 586-3315)**
- \* 15. **Approve Contract with Richard Carlson Consulting for Computer System Enhancements to Integrate the Fire Department's Record Management System with the City Wide On-Line Permitting System (Staff Contacts: Bill Marion, 586-2701 and Patricia Joki, 586-3370)**
- \* 16. **Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals: Main Sewage Pump Station Improvements, Project No. 6103 (Staff Contact: Greg Armendariz, 586-3317)**

## XXIII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, OCTOBER 17, 2006 AT 7:00 P.M.**

### **KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE**

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT COMMISSION at the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035  
E-mail: [rpioroda@ci.milpitas.ca.gov](mailto:rpioroda@ci.milpitas.ca.gov) / Fax: 408-586-3030 / Phone: 408-586-3040  
A free copy of the Open Government Ordinance is available from the City Clerk's Office or by visiting the City's website [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov), select Open Government Ordinance under News Features.

### **BECOME A CITY COMMISSIONER!**

Currently, there are openings on the following Commissions:

*Community Advisory Commission  
Economic Development Commission (Hotel Rep)  
Mobile Home Park Rental Review Board  
Sister Cities Commission  
Telecommunications Commission  
Youth Advisory Commission  
Planning Commission (alternate)*

Applications are available online at [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov) or outside the City Council Chambers.

Contact the City Clerk's Office (586-3003) for information.

## AGENDA REPORTS

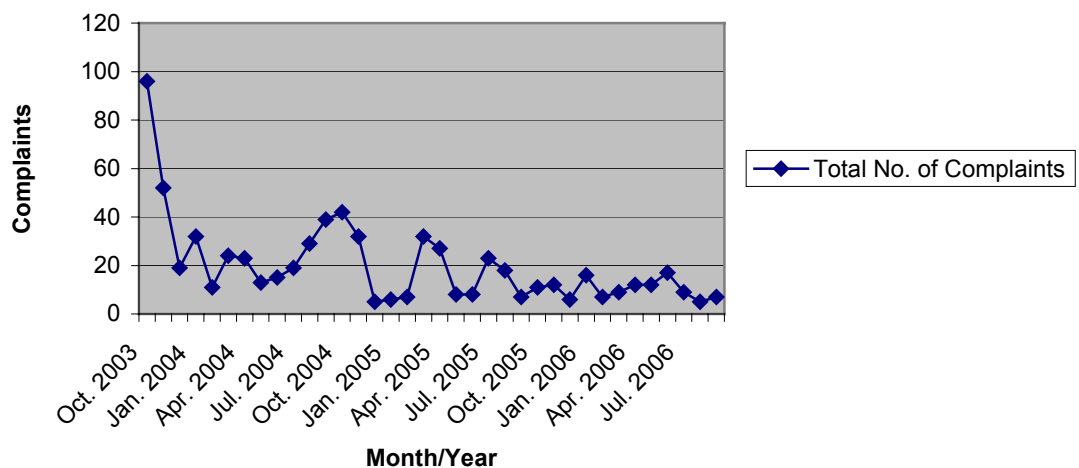
### XIV. PUBLIC HEARINGS - NONE

### XV. UNFINISHED BUSINESS

- \* 1. **Odor Control Comprehensive Action Plan Update (Staff Contact: Marilyn Nickel, 586-3345)**

**Background:** The Bay Area Air Quality Management District (BAAQMD) Rapid Notification system continues to e-mail real-time odor complaint advisories to potential odor sources and City staff. Complaints have remained low as shown in the graph below.

**October 2003 - September 25, 2006 Odor Complaint Summary**



**Recommendation:** Note receipt and file progress report.

### XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

- RA1. Call to Order by the Mayor/Chair**
- RA2. Roll Call**
- RA3. Approval of Minutes (September 19, 2006)**
- RA4. Approval of Agenda and Consent Calendar**
- RA5. Receive Progress Report on Library and East Parking Garage, Project Nos. 8162 and 8161 (Staff Contact: Mark Rogge, 586-3403)**

**Background:** The Library Subcommittee met on September 26, 2006 and heard a brief progress report and initiated the Groundbreaking Ceremony for the Parking Garage. The Library architect, Group 4 Architecture, is completing the contract documents for the Library. Devcon Construction has begun construction on the parking garage. Staff will provide a brief presentation on the progress of these projects.

## **Library**

Pre-qualifications statements from prospective contractors were received on August 31, 2006 and evaluated. The Library Subcommittee reviewed the list and recommended approval by the City Council/RDA Agency. If there are any appeals, they would be considered at the October 17 City Council meeting. The draft Milpitas Public Library Bidders List is included as an attachment.

Group 4 is responding to minor plan-check comments recently received from the Building Department. The revisions must be made and back-checked prior to issuing the plans for bid so that the contractor can obtain the building permit with the bid plans. Staff recommends that the City Council/RDA Board approve the plans and specifications and authorize advertising for monetary bids and issuing the bid sets as soon as they are ready.

## **Parking Garage**

A brief groundbreaking ceremony was held on Tuesday, September 26, 2006 at 5:30 PM at the construction site. After an introduction, announcement of the test pile results and comments from Mayor Esteves and Councilmember Livengood, the City Council members broke ground by initiating the drill rig to auger 70-feet deep. The attendees witnessed the installation of a complete auger-cast displacement pile.

### **Recommendation:**

1. Approve the Milpitas Public Library Bidders List and set the date of October 17, 2006 to hear appeals, if any.
2. Approve the plans and specifications for the Milpitas Public Library, Project No. 8162, and authorize advertising for bid proposals from pre-qualified bidders list.
3. Note, receive, and file the progress report on the Library and Parking Garage.

**\* RA6. Waive Second Reading Beyond Title and Adopt Ordinance Nos. 192. 16 and 192.17 Amending the Redevelopment Plans for Project Area No. 1 and the Great Mall Project Area (Staff Contact: Diana Whitecar, 586-3059)**

**Background:** At the City Council meeting on September 19, 2006, the Agency introduced two ordinances to extend the life of the two project areas, with the exception of the Midtown area added in 2003, as permitted by SB 1096. This 2004 legislation allows each Agency that made Educational Revenue Augmentation Fund (ERAF) payments in Fiscal Years 2004-05 and 2005-06 to extend the life of the project areas by the number of years the payment were made, or in the case of the Milpitas Agency, for two additional years. SB 1096 specifically limits the time extensions to those projects areas that have less than 20 remaining years of effectiveness; thus, it does not apply to the Project Area No. 1 Midtown added area.

The Agency is now requested to adopt the two ordinances. Staff has not received any comments from the taxing agencies regarding the proposed amendments.

**Recommendation:** Waive second reading beyond title and adopt Ordinance Nos. 192.16 and 192.17 amending the Great Mall and Project Area No. 1 Redevelopment Plans to extend the life of the two project areas, as allowed by Senate Bill 1096.

**\*RA7. Adopt Resolution Granting Initial Acceptance: North Main Street Utilities Project Weller Lane To Carlo Street Underground District No. 5, Project No. 8153, (Staff Contact: Steve Erickson, 586-3414)**

**Background:** This \$3,267,704 project provides for the installation of new and up-sized underground sewer, storm, water, power, gas, phone, and cable utilities to serve the new Milpitas library, east parking garage, and other Midtown development projects such as the DeVries Place senior housing, County health center, and certain improvements for the Apton Plaza, private development, just north of the library site. The project also removed the old abandoned

underground utilities, removed the overhead wires and utility poles, and it removed the concrete slab under the Main street asphalt roadway, which was the former Old Oakland Road highway.

The City Council awarded the project to D'Arcy & Harty Construction Incorporated on February 7th, 2006. The Contractor has completed the project work, and final inspection was performed in August 2006. Therefore, an initial acceptance may be granted and the contractor's faithful performance bond may be reduced to \$360,405.50, which is 10% of the contract amount.

**Recommendation:** Adopt a resolution granting initial acceptance of the project subject to the one-year warranty period and reduction of the faithful performance bond to \$360,405.50.

**\*RA8. Authorize City Manager to Execute a Land Exchange Agreement with McCarthy Ranch Limited Partnership and Execute Grant Deeds, and Adopt Two Resolutions Authorizing Lot Line Adjustment, and to Summarily Vacate a Public Service Easement: Main Sewage Pump Station Site Improvements, Project No. 6079 (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** The main sewage pump station site improvements project is included in the current 5-year Capital Improvement Program (CIP), and includes removal of abandoned sewage treatment facilities, which was completed last year, construction of site improvements for Public Works operations and storage functions, and securing a 70 foot wide strip of land that lies between the pump station and North McCarthy Boulevard.

The frontage strip, owned by the McCarthy Ranch Limited Partnership (McCarthy), can be acquired at no net cost by exchanging it for City land at the north end of the pump station parcel. The north portion of the parcel lacks good access, and is no longer in active use. The frontage strip will provide the City with an improved site layout immediately next to the pump station facilities.

Staff recommends approval of a land exchange agreement with McCarthy (see attachment) with the following provisions:

- Exchange City land at the north end of the pump station totaling approximately 1.1 acres for an equal square footage of the frontage strip land (between the pump station and McCarthy Blvd.).
- Reassign the assessment district property assessments that are associated with the existing McCarthy property to be acquired by the City, to the City property to be acquired by McCarthy. This action will ensure that there is no net change in current assessment obligations.
- Remove repurchase rights from the pump station parcel. This parcel was originally acquired from McCarthy. McCarthy retains the right to buy back any part of the land that is not needed for sanitary sewer purposes. McCarthy has agreed to rescind this right.
- City and McCarthy are each to be responsible for required frontage improvements (landscaping, sidewalks) on each of their parcels. City will provide fencing and/or landscape screening along the north and east sides of the pump station parcel as part of the planned site improvements.

The property line change can be implemented via a lot line adjustment, because the two affected parcels are contiguous. A resolution authorizing the lot line adjustment is attached and recommended for approval. The exchange of ownership will be formalized with appropriate grant deeds.

In 1970, McCarthy granted a public service easement over the frontage strip for installation of a storm water control dike (storm berm). New levees along Coyote Creek and improved storm

system facilities have made the easement and storm berm unnecessary. Staff recommends adoption of a resolution to summarily vacate the easement (see attachment). The vacation will allow the berm to be removed and the land to be used more productively.

Execution of the land exchange agreement is expected to involve minor costs for preparation and handling of various documents. Escrow costs will be shared equally by the City and McCarthy. There is adequate funding in the project budget to cover the anticipated costs.

**Recommendation:** Authorize and adopt the following:

1. Authorize the City Manager to execute a land exchange agreement with the McCarthy Ranch Limited Partnership, subject to approval as to form by the City Attorney, and to implement related actions noted in the agreement.
2. Authorize the City Manager to execute grant deeds associated with the land exchange agreement.
3. Adopt a resolution authorizing a lot line adjustment between two adjacent parcels.
4. Adopt a resolution summarily vacating the public service easement granted for storm water control.

**RA9. Agency Adjournment**

**XVII. JOINT PUBLIC FINANCING AUTHORITY AND CITY COUNCIL MEETING**

**FA1. Call to Order by the Mayor/Chair**

**FA2. Roll Call**

**FA3. Approval of Agenda**

**FA4. Adopt Resolutions Authorizing the Sale, Execution and Delivery of Certificates of Participation in the Maximum Principal Amount of \$11 million to Provide Financing for Sewer System Improvements and Approve Related Documents and Actions (Staff Contacts: Emma Karlen, 586-3145 and Greg Armendariz, 586-3317)**

**Background:** In FY 2005-06, the Council approved a new Main Sewage Pump Station Capital Improvement Project to replace the existing pump station that has reached the end of its useful life. The replacement is necessary as the existing Main Sewage Pump Station does not have the capacity to handle the increase in sewer flows from the Midtown and Transit Area planned development and it is also susceptible to significant damages in the event of a major seismic event. Funding for this capital improvement project will primarily come from issuance of Certificates of Participation. Staff has been working with the necessary consultants to bring the financing to the Council for approval in October and to the bond market for a competitive sale of the Certificates in late November 2006. The annual debt service payment for the Certificates was estimated by E. Wagner & Associates, Inc., the City's Financial Advisor, to be not more than \$850,000 per year for the next twenty-one years. The sewer rates adopted by the City Council on August 7, 2006, provide the necessary excess sewer revenues for the payment of the annual debt service for the Certificates.

**Financing Structure:** The City previously issued Certificates of Participation in 2000 to finance several technology projects. Therefore, the City has prior experience with this general type of financing mechanism. Certificates of Participation are widely utilized throughout California. If the financing is structured correctly to meet the requirements established by the federal government, the interest payments received by the owners of the Certificates will be exempt from federal and state income taxation. The owners of the Certificates therefore require a lower rate of return on their investment, thereby lowering the interest costs to the City.

In the current financing, the City and the Milpitas Public Financing Authority (the "Authority") will be entering into an Installment Sale Agreement whereby the Authority will agree to acquire,



construct and install certain improvements (the "Project") to the Sewer System of the City and the City will agree to make installment payments, comprised of principal and interest components, to the Authority to pay for the Project. The Authority and the City will cause U.S. Bank, National Association, as trustee (the "Trustee") to deliver Certificates of Participation representing interests of the owners thereof in the installment payments. The Authority will assign its rights to receive installment payments to the Trustee for the benefit of the owners of the Certificates pursuant to the Trust Agreement among the City, the Authority and the Trustee.

Certificate Documents: By resolution, the Council and the Milpitas Public Financing Authority will approve the following documents:

- Installment Sale Agreement - This agreement is between the Milpitas Public Financing Authority, as Seller, and the City of Milpitas, as Purchaser of the Sewer System Improvement Project consisting of a new pump station to replace the existing sewage pump station located at Dixon Landing and North McCarthy Boulevard and the construction of a 2,500 square foot operations building (collectively, the "Project"). This agreement specified the terms and agreements of the sale of the project, term of the installment payments, amount of payments, responsibility for the maintenance of the Project, etc. during the term (twenty-one years) of the agreement.
- Trust Agreement - The Trust Agreement (the "Agreement") is among the Milpitas Public Financing Authority, the City and the Trustee. Pursuant to the Agreement, the Authority assigns its rights to receive installment payments to the Trustee, and the Trustee is given the authority to receive, hold, invest and disburse the monies paid to it for credit to the various funds and accounts established under the Agreement; to execute and deliver the Certificates, and to apply and disburse the payments to the Certificates owners. It sets forth the guidelines for the administration, investment and treatment of investment earnings generated by each fund and account. The Agreement obligates the City to pay compensation to the Trustee for services rendered under the Agreement.
- Preliminary Official Statement - This document is the public offering statement for the issuance of the Certificates. This document thoroughly describes the financing program, the public improvements to be financed, and the economic, financial and social characteristics of the City.
- Notice of Intention to Sell Certificates and Notice Inviting Bids - These documents provide notice to the underwriting community regarding the sale of the Certificates and the manner in which the firms must submit their bid for the purchase of the Certificates.

**Recommendation:** Staff recommends the City Council and the Milpitas Public Financing Authority (acting as separate bodies of government) adopt the following resolutions:

1. Resolution of the City Council of the City of Milpitas Authorizing the Execution, Delivery and Sale of Certificates of Participation, 2006 Series A (City of Milpitas Sewer Financing) in the Principal Amount of Not to Exceed \$11,000,000 to Provide Financing for Sewer System Improvements, and Approving Related Documents and Actions.
2. Resolution of the Board of Directors of the Milpitas Public Financing Authority Authorizing the Execution, Delivery and Sale of Certificates of Participation, 2006 Series A (City of Milpitas Sewer Financing) in the Principal Amount of Not to Exceed \$11,000,000 to Provide Financing for Sewer System Improvements, and Approving Related Documents and Actions.

#### **FA5. Agency Adjournment**

### **XVIII. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES**

#### **City Council**

**2. Discuss Petition Regarding Noise at Gill Park and Neighbor Concerns (Contact: Councilmember Polanski, 586-3024)**

**Background:** Councilmember Althea Polanski received a petition signed by some residents near Gill Park in Milpitas. The petitioners noted their concern about loud noise, generated by amplified music played in the park, causing negative impact. They made a request that the City no longer allow amplified music or oration.

Current practice in Milpitas is as follows: persons desiring to use a City park for a function obtain a permit and permission from Recreation staff at the Community Center. While amplified music generally is not permitted, those who request a waiver are directed to seek approval from the City Manager. The City Manager reviews the request and then decides to allow the amplified music/speech or deny the request. The applicant is then notified by letter, including date and time of use.

**Recommendation:** Hear report of Councilmember Polanski. Provide direction to staff on how to alleviate the noise problems associated with park permits that allow live and/or piped music.

**Telecommunications Commission**

**3. Approve Governing Policy and Operating Procedures for Milpitas Community Television Staff Contact: Bill Marion, 586-2701)**

**Background:** As part of the Comcast Cable Television Franchise, the City received grant funding to construct and equip a community access television studio. With opening of the studio scheduled for later this year, the Telecommunications Commission formed a subcommittee to draft governing policies and operational procedures for the studio and public access channel. This subcommittee studied the public access policies and procedures of a number of communities and then drafted documents for review by the entire Telecommunication Commission. The Commission approved these documents and recommended presentation to the City Council. The City Attorney has reviewed and approved the documents as to form. The Public Access Subcommittee will make a brief presentation and will be available for questions.

**Recommendation:**

1. Note receipt and file Telecommunication Commission report
2. Approve the Governing Policies and Operating Procedures for Milpitas Community Television.

**Utility Rate Subcommittee**

**4. Report on the Utility Rate Subcommittee Spring Valley Heights Solid Waste Service (Staff Contact: Marilyn Nickel, 586-3347)**

**Background:** At the September 5, 2006 City Council meeting, Council received requests from Spring Valley Heights residents for a waiver to mandatory solid waste service. Council directed staff to bring this item to the Utility Subcommittee for review and consideration. The Utility Rate Subcommittee met on September 26. A verbal report on the Utility Rate Subcommittee recommendation to approve waiver will be presented.

**Recommendation:**

Approve recommendation of Utility Rate Subcommittee to approve waiver for mandatory solid waste service and direct staff to prepare ordinance modification.

**Economic Development Commission**

\* **5. Recommendations for Action Plan Implementation: Branding Strategy and Entry Feature Signs (Staff Contact: Diana Whitecar, 586-3059)**

**Background:** In June 2006 the City Council approved the Economic Development Commission's (EDC) Economic Strategic Action Plan. Two of the recommendations address image enhancement of the City: creating a brand and installation of minor entryway signs. Funds were set aside for the signs as part of the FY 2006-07 Budget adoption.

Since that time, the Commission's Image Subcommittee has been working to identify the most strategic locations for the minor entry feature signs and to develop a process for creating a City brand. These activities and recommendations for implementation are described below.

**Minor Gateway Signs**

In 2000 the City Council approved a Streetscape Master Plan that, among other things, established locations for major and minor entry feature signs. Installation of the major gateway sign at Tasman and McCarthy Blvd. was completed as a result of this Master Plan. Additional implementation was delayed because of funding. However, in FY 2004-05, \$25,000 was set aside for design and installation of a minor entry sign that included solar panel illumination at the intersection of Piedmont and Landess Avenues.

As part of the Strategic Action plan, the EDC recommended additional funding for a second minor entry sign. The City Council approved the funding request and suggested that the selected locations reflect more business significant entryways into the City.

With this direction, the EDC approved, at its September 11, 2006 meeting, a change in minor entry ways locations to Park Victoria Blvd. at Montague Expressway; South Main Street at Montague Expressway, and North Milpitas Blvd. at Dixon Landing Road. The Commission recommends that the City Council approve the recommendation to install signs that will be designed to fit each location at the South Main Street and North Milpitas Blvd. sites as the priority locations (see attached maps).

**Branding Strategy**

The Commission recommends that the City Council also approve a Branding Stakeholder Committee to develop marketing recommendations for Commission and City Council action.

The Commission completed a Strengths, Weakness, Opportunities and Threats (SWOT) Analysis as part of the Economic Strategy. This included interviews with and comments from corporate and small business owners, and residents and community stakeholders, such as the Chamber of Commerce and other City Commissions. The SWOT analysis was the groundwork for the Commission's recommendation for enhancement of the City's image, with the first implementation step to develop a Branding Strategy.

The Commission recommends that a Branding Strategy be developed using the Image Subcommittee (Tomo Nguyen, Ray Maglalang, Zeya Moshin and Chair Dhaval Brahmbhatt) to participate actively with the other community stakeholder representatives. The stakeholder groups would include recreation, arts and culture, financial institutions, the Chamber of Commerce, the Downtown Association, education, business technology (manufacturing, biomedical, advanced technology and multi-media), historical, hospitality, the Indian Community Center, entertainment, real estate development, residents, restaurants and retail.

If directed by the City Council, the Commission will extend formal invitations to individuals representing the stakeholder groups to participate in the Committee. Their work plan would involve four to five meetings over the next several months. The main objectives of the workshops are:

- To sensitize stakeholders to the EDC's SWOT analysis and issues defined.
- To broaden perception and understanding of the issues that affect Milpitas.

- To identify current challenges and problems faced by Milpitas businesses (i.e., check the assumptions of the SWOT analysis).
- To develop strategies for collaboration with businesses, community groups and residents.

Expected outcomes are

- A better understanding of image issues.
- Create opportunities for continued engagement and discussion with stakeholders on Milpitas image issues.
- Increase regional, national and international awareness about the City.
- Publish and disseminate the outcome of the workshops and establish a follow-up plan.

**Recommendation:** Approve the recommendations of the Economic Development Commission to implement the two minor gateway signs and the Branding Strategy.

### **Facilities Naming Subcommittee**

- \* 6. **Approve Recommendation from the Facilities Naming Subcommittee to Request the County To Include Historically Themed Elements in The Proposed Milpitas Valley Health Center to Honor Early Medical Professionals in Milpitas (Staff Contact: Mark Rogge, 586-3403)**

**Background:** On September 20 the Facilities Naming Subcommittee reviewed a request from the City Council to consider honoring early medical professionals from Milpitas at the proposed Valley Health Center on Main Street. The County Health Center's project manager suggested that a letter from the City to the County would be the best way to formally initiate the request. The Subcommittee recommended that the City Council authorize the Mayor to send a letter similar to the attached draft letter.

The letter indicates that each of the N. Main Street buildings has incorporated a notable historic theme:

Milpitas Public Library – Restoration and adaptive reuse of historic Grammar School building;  
DeVries Place Senior Housing – Relocation and restoration of historic Smith/DeVries House;  
Midtown East Parking Garage – Milpitas historic timeline at lobby, display of branded boards, and display space for the historic fire engine.

The letter requests that the Valley Health Center include plaques in the lobby commemorating a few historically significant local health professionals: Dr. Al Curlin, longtime Family Physician; Dr. Renselaer Smith, early General Practitioner; and Dr. Sal Cracolice, early Pharmacist. The letter also suggests that graphical way finding elements be considered in the Health Center parking garage that would celebrate the history of the County's health-care system, similar to the timeline proposed for the Midtown East Parking Garage.

### **Recommendation:**

1. Approve Recommendation from the Facilities Naming Subcommittee to request the County to include historically themed elements in the proposed Milpitas Valley Health Center to honor early medical professionals in Milpitas
2. Authorize the Mayor to send the letter to the County requesting inclusion of historically themed elements in the proposed County Health Center.

### **Parks, Recreation and Cultural Resources Commission**

- \* 7. **Approve Twelve Family Child Care Assistance Fund Grant Requests (Staff Contact: Toby Librande, 586-3203)**

**Background:** The purpose of the Family Child Care Assistance Fund is to increase program quality in Milpitas family childcare homes. By submitting a grant request to the City, approved Milpitas family child care providers have the opportunity to purchase services and supplies which will create safer and more enriching environments for children. A family childcare home is defined as a business licensed to provide childcare services in the provider's primary residence. All family childcare homes are described as small or large, depending upon the number and ages of children cared for, but can serve no more than 14 children.

The City Council approved \$6000 for the Family Child Care Assistance Fund for FY 2006-2007. All of these funds are currently available for distribution. Per the Policies and Procedures, applicants are eligible for a maximum grant allocation of \$500 with priority funding status being granted to providers caring for children with special needs. The Policies and Procedures are included in the attachments.

Twelve family childcare providers submitted applications for funding assistance to be reviewed at the September 11, 2006, Parks, Recreation and Cultural Resources Commission (PRCRC) meeting. Each applicant meets the grant eligibility requirements and attended the meeting (or sent an alternate). At the PRCRC meeting, the Commission reviewed the grant applications and recommended approval of grant funding to the providers in the following denominations:

Burns, Victoria	\$500
Chagolla, Elba	\$500
Chaney, Janice	\$500
Clanton, Sherry	\$500
Desai, Shila	\$500
Egusa, Donna	\$500
Kwok, Sik	\$500
Lagman, Kim	\$500
Mohammed, Nasreen	\$500
Salim, Fauzia	\$500
Samawi, Samiha	\$500
Tai, Dinh	\$500

Should the grants be approved, all of the funding for the FY 2006/2007 will have been disbursed. Included in the Council's agenda packet for reference are the Family Child Care Assistance Fund Policies & Procedures and Application (effective FY 2004/2005), the Family Child Care Assistance Fund Budget and Allocations 1995-2006 and the Twelve Family Child Care Grant Applications FY 2006/2007.

**Recommendation:** Approve the grant funding from the Family Child Care Assistance Fund to the twelve family childcare providers (noted above), as approved by the PRCRC.

\* **8. Approve Three (3) Group and One (1) Individual Youth Sports Assistance Fund Grant Request (Staff Contact: Bonnie Greiner, 586-3227)**

**Background:** On June 20, 2006, the City Council approved; and appropriated \$8,000 for the Youth Sports Assistance Fund for the 2006-2007 budget year. Included in the Commission packet for review and consideration are three (3) Organizational Youth Sports Grant applications and one (1) Individual Youth Sports Grant application.

One (1) Individual Youth Sports Grant application was received from Natassia Hamor requesting \$500.00 to offset costs of traveling to Lincoln, Nebraska on September 2-9, 2006, for a swim meet including camping, meals, and other related travel expenses.

Three (3) Organizational Youth Sports Grant applications were received from Milpitas Youth Soccer Club, Milpitas North Little League and the Red Devils requesting \$1,000 each: Milpitas Youth Soccer Club, to provide coaches training Rule 101 and a referee clinic; Milpitas North Little League to offset traveling expenses to Senior All Stars in

Oregon and to offer scholarships towards families that cannot afford enrollment fees; and the Red Devils to offset expenses for a Las Vegas Tournament, October 27 –29, 2006.

Applicants meet the eligibility for the grant process. Staff has reviewed the items requested and has found that the requested items meet the application guidelines.

There is currently a balance of \$6,500 in the 2006-07 Youth Sports Assistance Fund.

The Parks, Recreation and Cultural Resources Commission (PRCRC) reviewed the applications on September 11, 2006 and recommended all grant applications be forwarded to Council for approval.

**Recommendation:** Approve three (3) Organization Youth Sports Grants for the Milpitas Youth Soccer Club \$1,000, Milpitas North Little League, \$1,000, Red Devils, \$1,000, and one (1) Individual Youth Sports Grant for \$500 to Natassia Hamor, leaving a balance of \$3,000 for the remainder of the fiscal year.

## **XIX. NEW BUSINESS**

- \* **9. Approve 'S' Zone Approval No. SZ2005-17 to Develop a 1.33 acre Parcel with a New 4,196 Square Foot, One-Story, Single-Family Hillside Residence with Site Modifications that include Removal of Protected Trees, Grading, and Landscaping, located at 802 Calaveras Ridge Drive (APN: 029-06-029), Zoned Single Family Residential-Hillside (R1-H), Applicant: Sam and Hemla Rao (Staff Contact: Kim Duncan, 586-3283)**

**Background:** On September 13, 2006, the Planning Commission recommended approval to the City Council for the construction of a 4,196 square foot single family residence with site improvements that include the removal of 2 protected trees, grading, and landscaping.

The project site is a 1.33-acre vacant parcel (Lot 12) located at the easternmost portion of the Calaveras Ridge Estates Subdivision Planned Unit Development (PUD 23.5) within the Hillside zoning district (R1-H), at the end of Calaveras Ridge Drive cul-de-sac (private road), and west of the Crestline Zone of Protection. The applicant is proposing a single story dwelling characterized as California Contemporary style with elements that consist of stucco exterior, foam trim and cornice details, bay and recessed windows, elevated entry foyer, wrought iron front deck fencing, and earth tone colors.

**Development Standards:** The project site is located in the Calaveras Ridge Estates Planned Unit Development (PUD 23.5) and is subject to specific design requirements. As proposed, the project complies with the PUD development standards by maintaining the required 40-foot front, rear, and side setbacks and a required 3-car garage. In addition, the project is in conformance with the Hillside development standards in terms of height, design, grading, impervious coverage, views/privacy, natural landscape, and perception of excessive bulk.

**Landscaping and Tree Removal:** Proposed landscape species consist of Common Thrift, Jasmine, California White Oak, and Crape Myrtle, which are in conformance with the Hillside Landscaping Policy (Resolution 6066) for Hillside development. In addition, 2 protected trees are proposed for removal, however 11 new replacement trees are proposed, which is in conformance with the Hillside Ordinance required tree replacement ratio of 5:1.

**Geological and Geotechnical:** The project site is located within the Alquist Priolo Special Study Zone, which requires a geological and geotechnical study to identify any significant seismic fault and/or slope instability hazards. Based on the Geologic and Seismic Hazards Evaluation Report (December 18, 1983) for the Calaveras Ridge Estates subdivision, as well as a Soil and Foundation Investigation (American Soil Testing, November 3, 2005) for this application, staff recommends the applicant incorporate the recommendations of the Seismic Hazards and Soil Investigation reports into the project to minimize potential hazards.

Grading: Approximately 579 cubic yards are proposed to be cut and 572 cubic yards proposed as fill to create a building pad on the project site. The remaining 7 cubic yards may be used in landscaping. Therefore, the proposed grading meets the intent of the Hillside Ordinance in that the essential natural Hillside characteristics, such as land form, vegetation, and scenic qualities, will be maintained.

**Recommendation:** Approve 'S' Zone Approval No. SZ2005-17, subject to the attached Findings and Special Conditions.

## **XX. ORDINANCE**

### **10. Consideration of an Ordinance of the City Council of the City of Milpitas Amending Milpitas Municipal Code Sections I-500-1.01 and 1.05 Regarding Appointment of Planning Commissioners, Including Waiver of First Reading and Introduction (Staff Contact: Richard Pio Roda, 586-3040)**

**Background:** At the September 12, 2006 special meeting, the City Council was informed of a recent California Attorney General Opinion finding that the mayor of a general law city makes appointments to the City's Planning Commission, subject to the approval of the City Council. City Municipal Code Sections I-500-1.01 and 1.05 are inconsistent with the non-binding persuasive authority of the Attorney General's Opinion, meaning the present procedure is legal, but inconsistent with the Attorney General's interpretation of the substantive Government Code provisions. In addition, although Attorney General Opinions are persuasive authority, they are historically accorded great weight by courts when making decisions. On the agenda for the City Council's consideration tonight is an ordinance proposing to amend Milpitas Municipal Code Sections I-500-1.01 and 1.05 to make the Code consistent with the Attorney General's Opinion.

**Recommendation:** Consider waiving first reading beyond the title and introduce Ordinance No. 41.11, an Ordinance of the City Council of the City of Milpitas amending Milpitas Municipal Code Sections I-500-1.01 and 1.05 regarding the appointment of Planning Commissioners.

## **XXI. RESOLUTIONS**

### **11. Adopt Resolution Amending the City Of Milpitas Classification Plan (Staff Contact: Carmen Valdez, 586-3086)**

**Background:** Periodically, amendments to the Classification Plan are required to account for organizational changes, equity adjustments to salary ranges, and the development of new classifications. The following proposed changes are the result of organizational changes within the Public Works Parks Division and the Recreation Services Division.

In February 2006, the City Council approved the combination of the Public Works Department and the Engineering Division. As part of City staff downsizing, the following changes are recommended in the organization. The recommended change is to combine the Public Works Parks Division and the Recreation Division into one Department. This would create a new classification of a Parks and Recreation Director. Combining Parks and Recreation Services under a single department will allow for improved efficiencies in the delivery of services to the community. The recommended annual salary range is \$126,297 - \$153,515. Included in the Council packet is the newly created job specification for your review.

**Recommendation:** Adopt a resolution amending the City of Milpitas Classification Plan to add a new classification of Parks and Recreation Director, with a salary recommendation of \$126,297 - \$153,515.

### **\* 12. Adopt Resolution Granting Partial Acceptance of Certain Public Improvements: Parc Metropolitan, Project No. 3061 (Staff Contact: Mehdi Khaila, 586-3328)**

**Background:** This project consists of the following public improvements:

- 1) Off-site public improvements (Curtis Avenue).
- 2) On-site public water and sewer improvements.
- 3) Three public parks (East, Middle and West Parks).

On June 15, 2004, the City Council initially accepted Curtis Avenue improvement and Middle and West Parks. A final inspection has been made, and these public improvements are satisfactory. Therefore, a final acceptance may be granted for Curtis Avenue improvement and West and Middle Parks.

On-site water facilities and East Park improvements are now ready for initial acceptance in accordance with the public improvement agreement. The developer's bond may be reduced to \$749,538, which is 10% (\$131,688) of the contract amount for the work, which the Council is initially accepting at this meeting, and 100% (\$617,870) of the public sewer facilities, which are as yet not accepted.

**Recommendation:** Adopt resolution granting:

1. Final acceptance of Curtis Avenue public improvement and West and Middle Parks.
2. Initial Acceptance of East Park and on-site public water facilities subject to the one year warranty period.
3. Reduction of Faithful Performance Bond to \$749,538.
4. Reduction of Labor and Material Bond to \$617,870 if no claims are filed with the City Clerk's office after six months of this initial acceptance.

- \* 13. **Adopt Resolution Certifying and Annexing Midpen Senior Housing Property on N. Main Street to Community Facilities District No. 2005-1, Project No. 3192 (Staff Contact: Mehdi Khaila, 586-3328)**

**Background:** Midpen (MP Milpitas Affordable Housing LLC), the owner of the Midpen Senior Housing Property (APN 022-08-041) was conditioned to annex to the Community Facilities District 2005-1 (CFD 2005-1) as a condition of the S Zone application. Resolution No. 7521 adopted by City Council on May 17, 2005, authorizes the City to annex certain properties to Community Facilities District 2005-1, which will be assessed only for eligible public services, without further public hearing or formal election upon receipt of written consent from the owners.

The owner of the subject parcel has given consent and approval that such parcel be annexed to CFD 2005-1. The owner has agreed and intends that such consent and approval constitutes election to annex to CFD 2005-1 and approval of the authorization for the levy of the special Tax within the property.

**Recommendation:** Adopt Resolution Certifying and annexing properties to Community Facilities District No. 2005-1.

## **XXII. BIDS AND CONTRACTS**

- \* 14. **Approve Consultant Agreements: RBF Consulting, and David J. Powers & Associates, Inc.- Environmental Services, On-Call Services (Various CIP/Non-CIP Projects) (Staff Contact: Andrew Brozyna, 586-3315)**

**Background:** In accordance with the City's consultant selection process, RBF Consulting, and David J. Powers & Associates, Inc. have been selected to perform the on-call environmental services for the City for 2006/07 fiscal year, with option to extend the service agreement based on the City's needs. Environmental clearance is required for all CIP projects prior to construction. Currently, the City does not have Environmental Services staff, and therefore relies on outside consultants to perform these services. An agreement with each of the firms has been negotiated



based on time and materials, for an amount not to exceed \$500,000 per agreement. There are sufficient funds available from various Capital Improvement and Non-CIP Projects.

**Recommendation:** Authorize the City Manager to execute the agreements with RBF Consulting, and David J. Powers & Associates, Inc in an amount not-to-exceed \$500,000 per each agreement, subject to approval as to form by the City Attorney.

- \* 15. **Approve Contract with Richard Carlson Consulting for Computer System Enhancements to Integrate the Fire Department's Record Management System with the City Wide On-Line Permitting System (Staff Contacts: Bill Marion, 586-2701 and Patricia Joki, 586-3370)**

**Background:** At the May 2, 2006 Council meeting, Council approved an online permitting system to provide city-wide permitting capability and support process improvement initiatives between the Building, Planning, Engineering, Finance and Fire departments. To fully integrate the Fire Department with the online system, an upgrade to its existing records management system is needed.

In accordance with Standard Operating Procedure 08-03, Selection of Professional Consultants, three firms provided estimated costs for the required system upgrades. After review, Richard Carlson Consulting has the most comprehensive experience and knowledge in Fire Department operations, permit and inspection processes and computer system needs. Additionally, Richard Carlson Consulting is recommended by the software vendor to perform the requested services. Estimated costs are \$ 81,000.00. Adequate funds are available in Capital Improvement Project No. 3398 for this upgrade and integration.

**Recommendation:** Approve contract, with approval as to form by the City Attorney, with Richard Carlton Consulting in the amount of \$ 81,000.00 for programming services.

- \* 16. **Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals: Main Sewage Pump Station Improvements, Project No. 6103 (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** The Main Sewage Pump Station Improvements project is included in the approved Capital Improvements Program. Plans and Specifications have been prepared for this project. Sewer bonds, presented for Council approval under a separate agenda item, will fund the construction of this project.

This project consists of replacement of the existing Main Sewage Pump Station for the City of Milpitas. The existing facility is over 40 years old and is seismically outdated and needs complete replacement.

The new facility will consist of a new below ground wet well containing two new grinders along with the existing two which are being upgraded and reused, four new submersible 175 horse power pumps, and placeholders for two additional for future expansion.

A new above ground control building will be constructed to contain the new variable speed drives for the pumps, level controls and will be the operations center for the site.

The existing electrical building will be retrofitted for new operations of the facility.

As the new facility is brought on line, the old pump station will be decommissioned and demolished along with the existing grinder structure.

Staff recommends Council approval of Plans and Specifications and authorization to advertise for bid proposals

**Recommendation:**

1. Approve Plans and Specifications
2. Authorize advertising of project for bid proposals.

**XXIII. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, OCTOBER 17, 2006 AT 7:00 P.M.**